

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

THE STATE OF MISSOURI ex rel.)	
ERIC S. SCHMITT,)	
)	
<i>Plaintiff,</i>)	Case No. 4:22-cv-00789
)	
v.)	
)	
THE CITY OF ST. LOUIS;)	
)	
ADAM L. LAYNE, TREASURER OF ST.)	JURY TRIAL DEMANDED
LOUIS CITY;)	
)	
DARLENE GREEN, COMPTROLLER OF)	
ST. LOUIS CITY; and)	
)	
DR. MATI HLATSHWAYO DAVIS,)	
DIRECTOR OF HEALTH OF ST. LOUIS)	
CITY,)	
)	
<i>Defendants.</i>)	

NOTICE OF REMOVAL TO FEDERAL COURT

COME NOW Defendants The City of Saint Louis, the Honorable Darlene Green – Comptroller for the City of St. Louis, the Honorable Adam Layne – Treasurer for the City of St. Louis, and Dr. Matifadza Hlatshwayo Davis – Director of Health for the City of St. Louis (collectively, “Defendants”), and hereby notify this Court of the removal of State of Missouri, ex rel. Eric S. Schmitt v. City of Saint Louis, et al., Cause No. 2222-CC08920, from the 22nd Judicial Circuit Court of Missouri, to the United States District Court for the Eastern District of Missouri. This action is within this Court’s original jurisdiction, and its removal, therefore, is proper under 28 U.S.C. §§ 1331, 1441(a), and 1446. As grounds for removal, Defendants state as follows:

1. Plaintiff State of Missouri, acting through its Attorney General, Eric Schmitt, filed its four-count Petition against Defendants in the 22nd Judicial Circuit Court of Missouri, styled as

State of Missouri, ex rel. Eric S. Schmitt v. City of Saint Louis, et al., Cause No. 2222-CC08920 on July 21, 2022.

2. The State alleged, as relevant, that the City has received federal “American Rescue Plan Act (‘ARPA’) funds,” pursuant to 42 USC §§ 801-805 (Coronavirus relief, fiscal recovery, and critical capital project funds); that on July 21, 2022, the City enacted Board Bill 61, which established a “Reproductive Equity Fund” pursuant to the requirements contained in, inter alia, § 803(c)(1); and that the Reproductive Equity Fund was funded “with \$1.5 million in ARPA funds.” (Ex. A, Petition, pp. 6-7).

3. The State further alleged that it is authorized, pursuant Dobbs v. Jackson Women’s Health Org., No. 19-1392, 597 U.S. ___ (2022), to “regulate abortion.” See Ex. A.

4. Counts I-IV of the Petition allege the State has the ability to place restrictions on the appropriation of federal ARPA funds, in addition to those under §§ 802 and 803(c)(1); and to otherwise prohibit the City’s appropriation and expenditure of federal ARPA funds by virtue of state law. See Ex. A. In other words, there is a contested federal issue which is both substantial and implicates a serious federal interest, i.e., the appropriation and regulation of federal funds. See Grable & Sons Metal Prods. v. Darue Eng’g & Mfg., 545 U.S. 308, 312, 314–15 (2005); County of St. Charles v. Missouri Family Health Council, 107 F.3d 682, 684 (8th Cir. 1997) (held that petition seeking declaration concerning appropriation of federal funds contains federal question and district court properly declined to remand the case); see also Lawrence County v. Lead-Deadwood School Dist., 469 U.S. 256, 270 (1985) (held that state legislation limiting manner in which local governments may spend federal funds obstructs congressional purpose and runs afoul of Supremacy Clause); cf. see Missouri v. Yellen, 2022 WL 2719929 (8th Cir. Jul. 14, 2022) (considering State’s arguments regarding certain requirements for expenditure of ARPA funds

under, as relevant, 42 U.S.C. § 802(c)). As such, a federal question is presented on the face of the Petition.

5. This Court has original jurisdiction over the State's claims, pursuant to 28 U.S.C. § 1331.

6. Venue is proper in this District pursuant to 28 U.S.C. §1441(a) because this District and Division embrace the place in which the removed action is pending.

7. Pursuant to Local Rule 2.03, a copy of all process, pleadings, orders, and other documents on file in the State court are attached hereto as Exhibit A. Plaintiff's Motion for Preliminary Injunction is attached hereto as Exhibit B.

8. Defendants have not yet been served, and therefore removal is timely pursuant to 28 U.S.C. § 1446(b) and Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 354–355 (1999).

9. All Defendants consent to removal.

10. Defendants herewith submit the filing fee in the amount of \$402.00 and the proof of filing the notice of removal with the clerk of State Court.

WHEREFORE, Defendants remove State of Missouri, ex rel. Eric S. Schmitt v. City of Saint Louis, et al., Cause No. 2222-CC08920, from the 22nd Judicial Circuit Court of Missouri to this Court for all further proceedings.

Dated: July 27, 2022

Respectfully submitted,

SHEENA HAMILTON
CITY COUNSELOR

By: /s/ Erin K. McGowan

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CERTIFICATE OF SERVICE

I hereby certify that on **July 27, 2022** this Notice was sent via email and mailed to:

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/s/ Erin K. McGowan